

IN THE INTERNATIONAL COURT OF JUSTICE

THE KINGDOM OF CAMBODIA,

APPLICANT

V.

THE KINGDOM OF THAILAND,

RESPONDENT

MEMORIAL OF THE KINGDOM OF CAMBODIA

COMES NOW the former Royal kingdom of Cambodia and their memorial to the Court states the following:

STATEMENT OF LAW

1. According to Article 3 of the Franco Siamese Treaty of 1904: “There shall be a delimitation of the frontiers between the Kingdom of Siam and the territories making up French Indo - China. This delimitation will be carried out by Mixed Commissions composed of officers appointed by the two contracting countries.”

STATEMENT OF FACT:

The Temple Preah Vihear was built by Suryavarman I who was king of the Khmer Empire which was in Cambodia and for years the temple has had importance to Cambodia because of its religious meaning to the people of Cambodia. In September 1863, the French became the protector of the Kingdom of Cambodia and all its international relations were handled by the French. Both the Kingdom of Thailand and French agree that they had to create boundaries between the countries and decided that the best way to do it was with a treaty. The Franco-Siamese Treaty of 1904 was signed and ratified by both the Kingdom of Thailand and the French. The Treaty declares that the border between the two countries would follow the watershed line. Due to ambiguities in where the watershed line falls, the Treaty called for the creation of a Mixed Delimitation Commission. In a 1907 map, the Mixed Delimitation Commission placed the Temple Preah Vihear within the sovereignty of the Kingdom of Cambodia.

Between 1907 and 1954, both Cambodia and Thailand treated the 1907 Mixed Commission map as representing the territorial boundary between the two countries. Following Cambodia's independence in 1953, Thailand sent military forces to occupy the Temple, claiming the Temple falls within its sovereign territory.

STATEMENT OF JURISDICTION:

1. The application is brought under Article 36, Paragraph 1 of the Statute of the court: “The States parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning (a) the interpretation of a treaty, (c) the existence of any fact which, if established, would constitute a breach of an international obligation, [and] (d) the nature or extent of the reparation to be made for the breach of an international obligation.”
2. Both Thailand and Cambodia have recognized the compulsory jurisdiction of the court through their respective declarations of May 20, 1950 and September 9, 1957.

ARGUMENTS:

1. While the 1904 Franco Siamese Treaty suggests the watershed line as the basis for delimiting the border, it explicitly empowers the Mixed Commissions to demarcate the final border in the Dangrek region.
2. The Mixed Commission issued a series of eleven maps and presented them to the Kingdom of Thailand in 1907. The Map of the Dangrek region (see Annex I) clearly placed the Temple within the sovereign Cambodian territory. This should represent the legally-binding boundary between the countries as per Article 3 of the Franco Siamese Treaty of 1904.
3. The Kingdom of Thailand raised no objections to the map at the time, or any other time, until Cambodia’s independence from France. This lack of objection and de facto French/Cambodian sovereignty over the Temple should be considered as Thailand’s acceptance of the border.

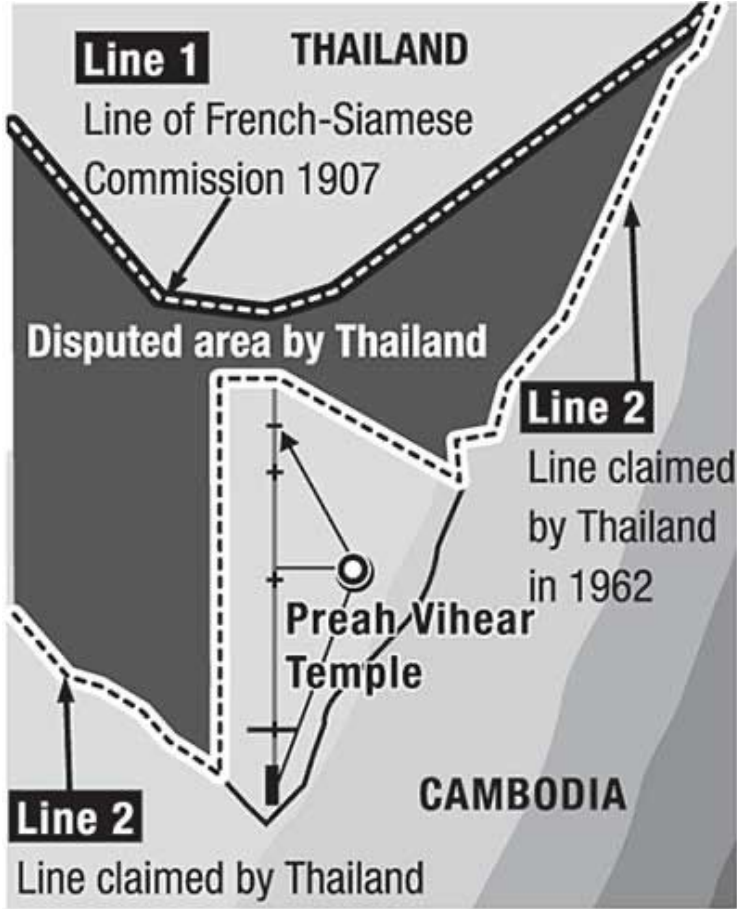
SUMMARY AND REQUESTS:

Both parties to this dispute have accepted the Court’s compulsory jurisdiction. Both acknowledge that the Franco Siamese Treaty of 1904 provides the legal basis for the border. Article 3 of that treaty places the ultimate delimitation of the border in the hands of the Mixed Commission. That Commission produced a series of maps that placed the Temple within sovereign Cambodian territory. The Kingdom of Thailand received those maps and raised no objections, indicating their acceptance of the maps as the final legal border.

Thailand's military occupation of the Temple therefore represents a violation of the United Nations Charter Article 2 paragraph 4, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

The Kingdom of Cambodia requests that the Court reaffirm the legally-binding nature of the maps produced by the Mixed Commissions, including the map of the Dangrek region that places the Temple Preah Vihear within sovereign Cambodian territory, and provide immediate relief by demanding that the Kingdom of Thailand withdraw its military forces from the Temple Preah Vihear.

ANNEX I



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